



US Army Corps
of Engineers
St Paul District

APPLICANT: Southwest Casino
and Hotel
Corporation

Public Notice

ISSUED: 06 February 2004
EXPIRES: 07 March 2004

REFER TO: 04-01461-TJF

SECTION: 404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge fill material in wetlands adjacent to Rice Creek during the construction of the North Metro Harness Racing Track. The overall proposal at full development would include a harness race track, grandstand and card club, casino, and supporting facilities, including 4,750 parking spaces.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: 2001 Killebrew Drive, Suite 306
Minneapolis, MN 55425-1864

AGENT: Peterson Environmental Consulting, Inc.
1355 Mendota Heights Road, Suite 100
Mendota Heights, MN 55120-1112
(651) 686-0151

PROJECT LOCATION: The approximately 165 acre project site is located in the SW 1/4 Sec. 24, T. 32N., R. 22W., Anoka County, Minnesota. The approximate UTM coordinates are Zone 15, North 5009500, East 497600.

DESCRIPTION OF PROJECT: The applicant proposes to construct the project in two phases, beginning in 2004. Phase 1 would include the horse racing track and grandstand, card club, horsebarns and maintenance buildings. A roadway system and about 1,850 parking spaces would also be constructed, along with the necessary storm water management ponds and water quality treatment system. If allowed by state law, Phase 2 would include the construction of the casino. Based on the current design, the Phase 2 construction would not involve any additional wetland filling.

QUANTITY, TYPE, AND AREA OF WETLAND FILL: It has been estimated that about 10.94 acres of wetland would be filled for the harness track complex. An additional 1.24 acres of wetland would be filled during the construction of a township road that would run along the west margin of the site.

VEGETATION IN AFFECTED AREA: About 12 wetlands, ditches, ponds, etc. were identified on the site during a 2003 delineation. These wetlands include a large 41 acre complex (Wetland A) in the southeast portion of the site that the applicant indicated has been substantially degraded by past ditching, draining and dredge material deposition. Reed canary grass and willow shrubs were indicated as

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the dominant vegetation. Another large wetland (Wetland H) forms the western edge of the project area. This is a diverse area containing emergent, scrub shrub and forested plant communities.

Several other areas are small forested basins in the southwest portion of the site. Four other wetlands are small open water ponds excavated in the past as part of a trout farming operation.

It appears much of Wetland A and H is located within the floodplain of Rice Creek.

ALTERNATIVES: The applicant provided information regarding the No Build alternative; possible off site alternative locations; and on site alternatives to minimize impacts. They indicated that not building on the site would defeat the reasonable expectations of the landowner and the applicant. Also, the property lies within the Columbus Township Freeway Corridor zoning district, which is planned for freeway-oriented commercial development.

When selecting the proposed site, the applicant used the following criteria:

- *Site must be in the seven county metro area.
- *Site needs to be at least 25 miles from Canterbury Downs.
- *Site must have at least 100 developable acres; with a preference for 125 to 150 acres for ancillary uses.
- *Site must have freeway access and visibility.
- *Site needs to be of sufficient size for the business needs.
- *Site needs community sewer and possibly water.
- *Site needs zoning approval.
- *Site control must be obtainable for a long period of time to allow for licensing, permitting and financing.
- *Site needs to be in an area where this type of business would be well received by residents and decision makers.
- *Project must not impact dense residential areas.

Three other locations were listed as having been considered for the project, but were dismissed for the following reasons:

1. Metro Gun Club property in the area of Lexington Avenue and 109th Avenue in Blaine. It was felt that freeway visibility was limited. Access was not adequate without enhancements to 109th Avenue. Other developments were being pursued for the site. Litigation over Anoka County Ditch 53/62 could slow development.
2. Trout Aire Property located immediately south of the proposed site. It was felt that this site had limited freeway visibility and access was not quite as suitable. Wetlands covered the majority of the site and the uplands are to the rear (west) of the site.
3. Rehbein Property near Interstate 35E and County Road 14. The site was 350+ acres and the owner was not willing to subdivide. The site was too large to be economically viable for this project alone. Also, the proposers would not have adequate control over other uses that could occupy the remaining portions of the site.

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According to the applicant, the proposed site was chosen because it had: suitable acreage; travel distance from population centers was acceptable; freeway access and visibility were good; neighbors and Columbus Township appear to accept the proposed land use; there is virtually no conflict with residential use in the area; and municipal sewer will be available to the site in one year.

Regarding on site alternatives that would minimize impacts, the applicant indicated that the track and grandstand size and configuration is fixed and cannot be changed. Moving these features to the south or west would involve greater wetland impacts. Moving to the east is not practicable because of the existing County Road 21 and private property that is not for sale. Moving northward was not considered feasible because of the County Road 21 alignment, the proposed township road along the west property line and the desire to avoid impacts to Wetland Basin H. Also, reorienting the track north to south would not leave adequate space to avoid impacts to either Basin H or County Road 21.

COMPENSATORY WETLAND MITIGATION: To offset the proposed total wetland impacts of 12.18 acres, the applicant has proposed both on site wetland replacement and the purchase of wetland credits from a wetland mitigation bank.

In 7 scattered areas on site the applicant would excavate upland adjacent to other wetlands to create a total of 6.61 acres of new wetland. In 3 other areas the applicant proposes to restore the hydrology and plant communities of a total of 32.34 acres of existing degraded and partially drained wetland. The Minnesota Wetland Conservation Act would allow up to 25 percent of this area to count as New Wetland Credit (NWC) - for a total of 8.08 acres of NWC. The applicant would also be preserving existing forested areas and planting/establishing upland buffer areas on site to gain public value credits (PVC). A total of 3.48 acres of buffer areas would be provided in 5 locations. Also, the project includes the construction of storm water management ponds and infiltration ponding facilities in upland areas on the site.

To complete the wetland replacement, the applicant would be purchasing 2.42 acres of NWC and 4.64 acres of PVC from a wetland mitigation bank at the Rice Creek Corporate Center in Arden Hills. This site is near the interchange of County Road J and I-35W. Although this bank is not in the same minor watershed as the impact area, it is in the same major watershed.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

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Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 190 Fifth Street East, Saint Paul, MN 55101-1638.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Timothy J. Fell at the St. Paul office of the Corps, telephone number (651) 290-5360.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

None were identified by the applicant or are known to exist in the permit area. However, Anoka County is within the known or historic range of the following Federally-listed threatened species:

<u>Species</u>	<u>Habitat</u>
Bald eagle	Mature forest near water

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. JURISDICTION.

This project comes under the regulatory jurisdiction of the Corps of Engineers because some of the wetlands being impacted are adjacent to Rice Creek, which is tributary to the Mississippi River, a navigable water of the United States.

REGULATORY AUTHORITY: This application will be reviewed according to the provisions of Section 404 of the Clean Water Act. Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 Code of Federal Regulations 230).

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED: Columbus Township; Anoka County; Rice Creek Watershed District; Minnesota Department of Natural Resources; Minnesota Pollution Control Agency; Minnesota Racing Commission.

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state

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Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

The MPCA has eliminated the staffing resources for the Section 401 certification program due to budgetary limitations. Due to staff reductions, MPCA is intending to waive many section 401 certification applications with limited exceptions but the MPCA reserves the right and authority to proceed differently if extreme or unique circumstances merit a different approach. In many cases, the waiver of 401 certification means that the MPCA has not reviewed federally permitted projects in detail for conformance with state water quality standards nor has the MPCA made a determination of the proposal's compliance with state water quality standards. This waiver action, however, will not exempt the applicant from the responsibility of complying with all applicable water quality standards and requirements as contained in Minn. R. ch. 7050 and all other applicable state rules regarding water quality. The applicant will need to make a self-determination of water quality compliance of their proposal. In the event of water quality violations caused by the applicant's project, enforcement action may be taken by the MPCA.

Any comments relative to MPCA's intention to waive Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency
Regional Environmental Management Division
Attention 401 Certification
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer to determine if there are known cultural resources which may be affected by the described work. Any unknown archaeological, scientific, or historical data could be lost or destroyed by the work described in the permit application. However, the latest version of the National Register of Historic Places has been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located in the project area.

8. PUBLIC HEARING REQUESTS.

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Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

9. PUBLIC INTEREST REVIEW.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

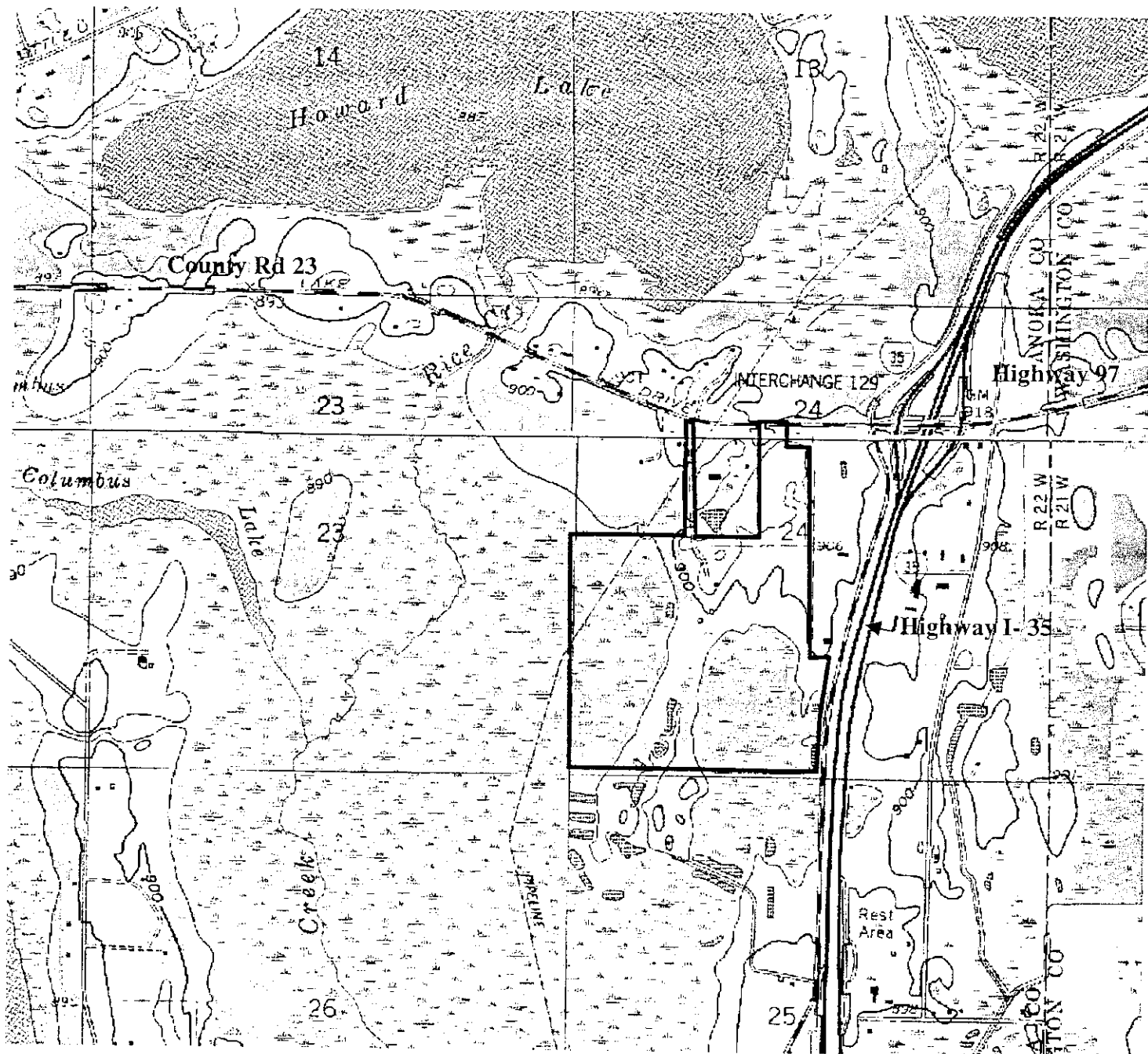
The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.



Ralph J. Augustin
Chief, Metro Permit Section

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.



Site Location North Metro Harness Initiative

Columbus Township, Minnesota



Peterson
Environmental
Consulting, Inc.

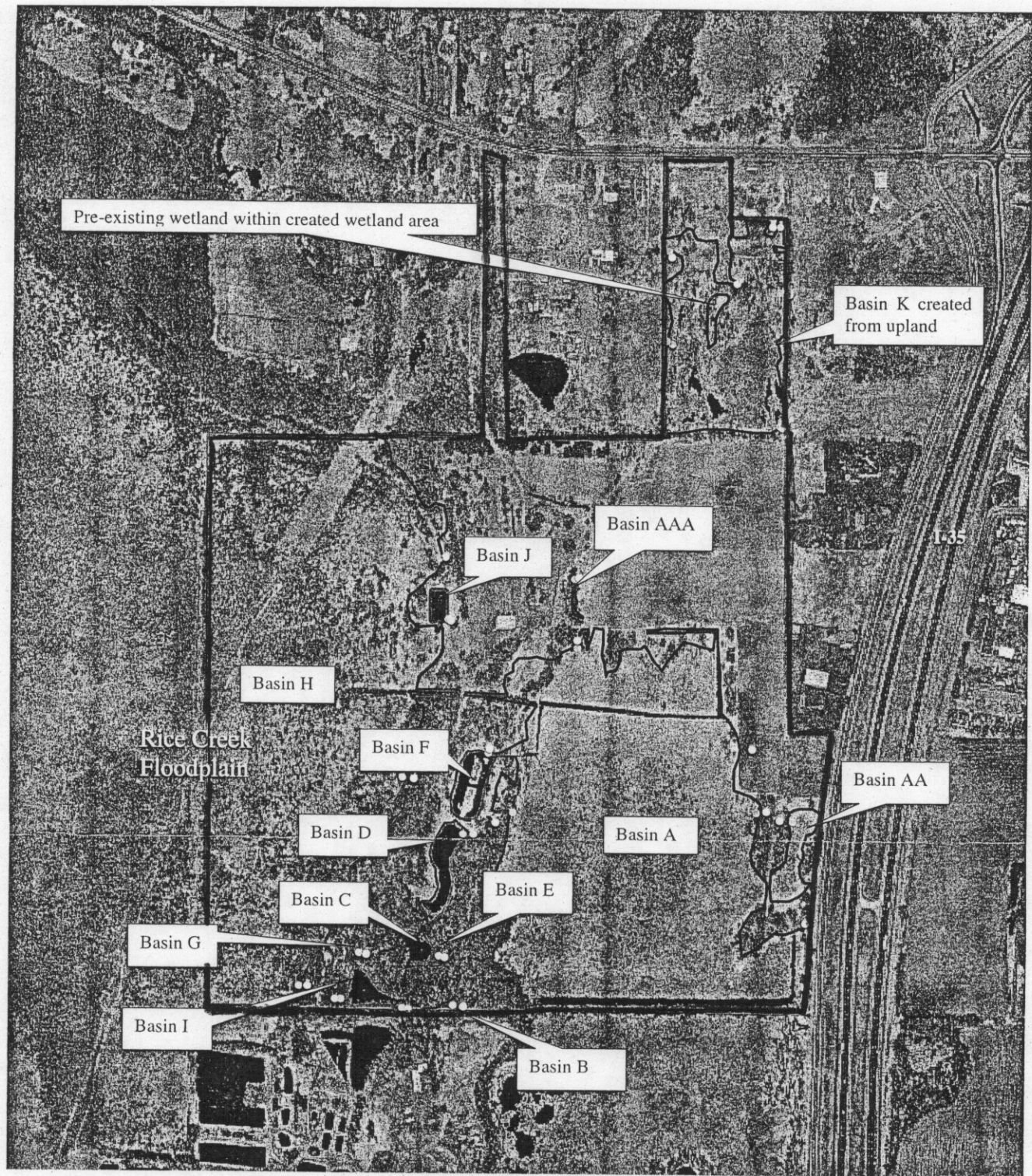
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FIGURE 1

PEC Project No. 2003-032



LEGEND

- Property Boundary
- Wetland Boundary
- Upland Soil Pit
- Wetland Soil Pit

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**Delineation of Wetland Boundaries
North Metro Harness Initiative
Columbus Township, Minnesota**



minneapolis
newport beach
pasadena

KKE Architects, Inc.
300 first avenue north
minneapolis, mn 55401
phone 612/338-4200
fax 612/342-9267

Harness Initiative, LLC

Southwest Casino &
Hotel Corp.

Key Plan

Project Name

Project Number

Project Date

Project Location

Project Description

Project Status

Project Owner

Project Manager

Project Engineer

Project Designer

Project Checker

Project Approver

Project Signer

Project Seal

Project Stamp

Project Title

Project Subtitle

Project Address

Project City

Project State

Project Zip

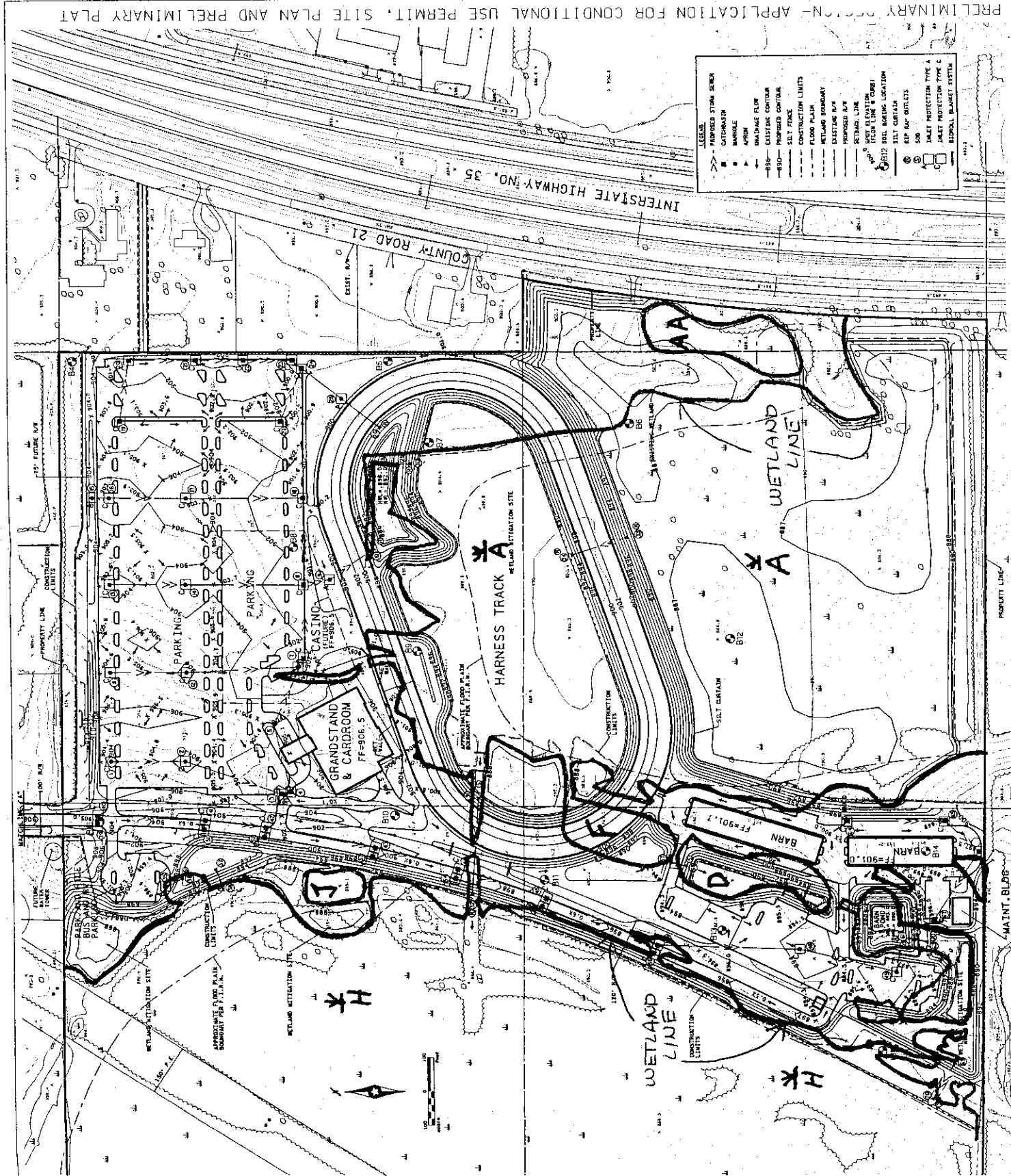
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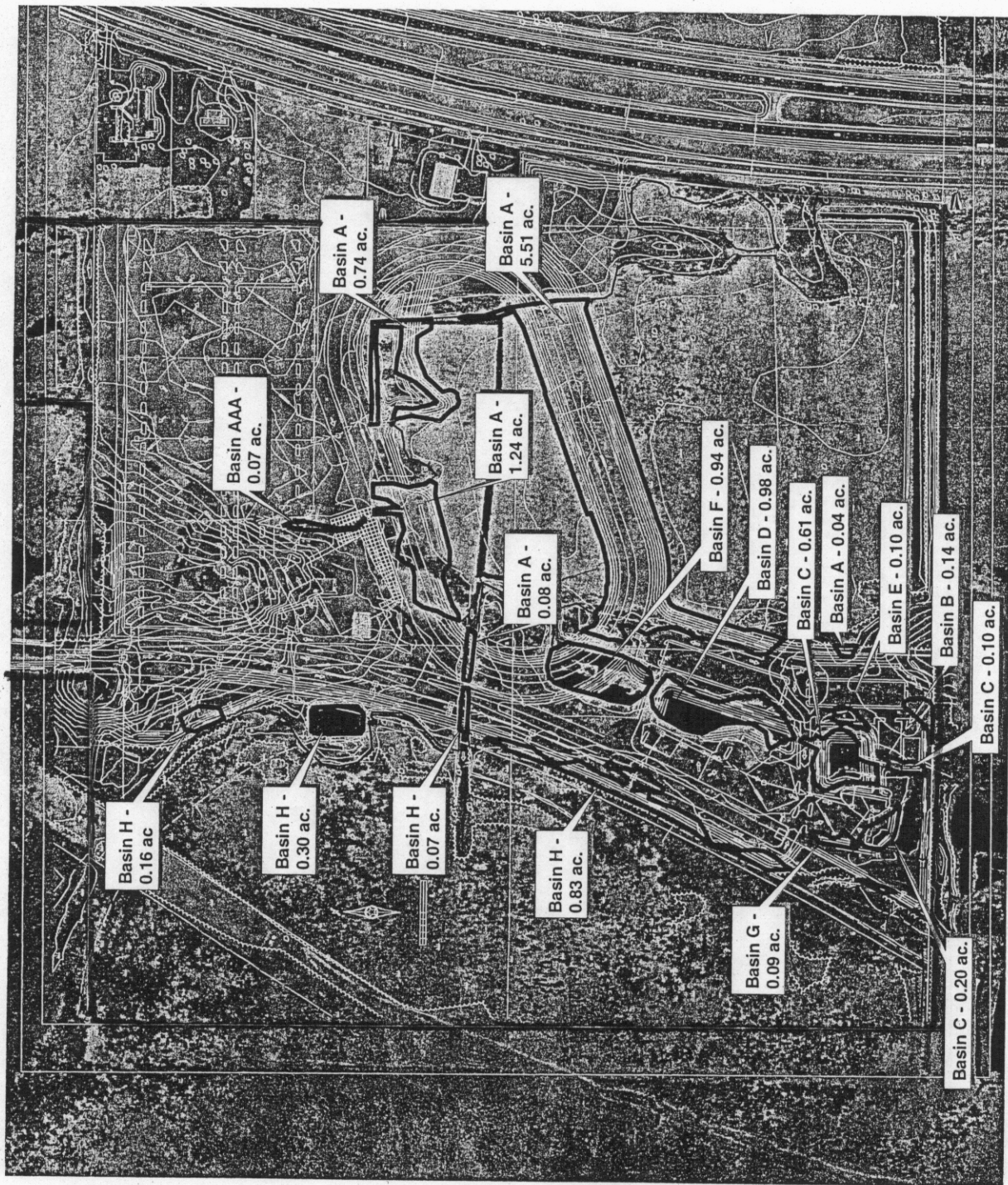
Project Fax

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PRELIMINARY GRADING &
EROSION CONTROL PLAN

PRELIMINARY EROSION CONTROL PLAN - APPLICATION FOR CONDITIONAL USE PERMIT, SITE PLAN AND PRELIMINARY PLAT





Wetland Impacts

Delineated Wetlands

Proposed New Contours

Plan and Survey

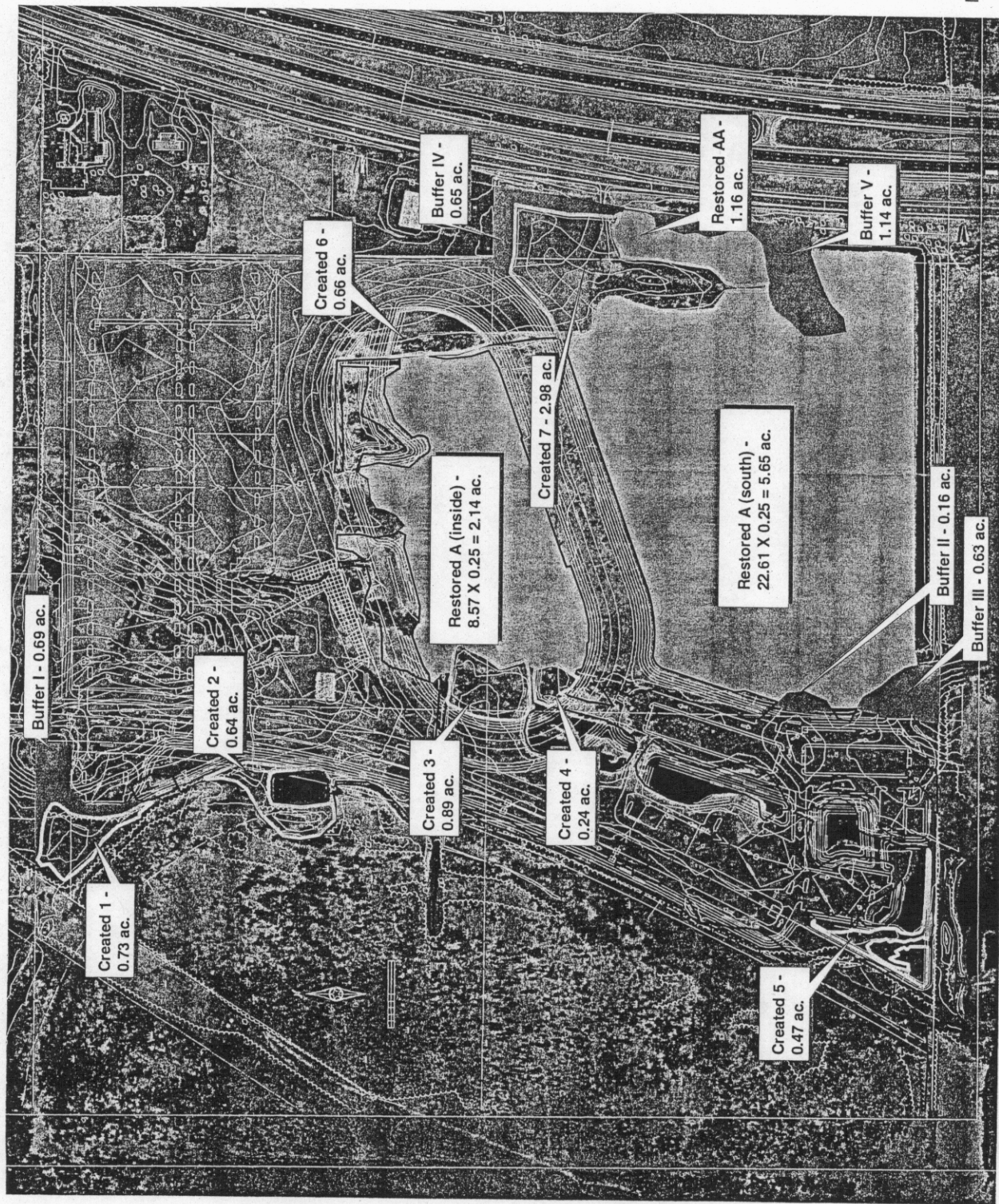


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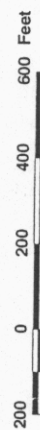
Note: See Table 1.0 and 1.1 of replacement plan narrative for details.

Proposed Wetland Impact
North Metro Harness Initiative
Columbus Township, Minnesota

Peterson Environmental
Consulting, Inc.



- New Wetland Creation Areas
- Wetland Impacts
- Upland Buffer Areas
- Wetland Restoration Areas
- Delineated wetlands
- Proposed New Contours
- Plan and Survey



Note: See Table 3.0 of replacement plan narrative for details.

Peterson Environmental
Consulting, Inc.

Proposed Wetland Mitigation North Metro Harness Initiative Columbus Township, Minnesota